

JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

JUN 16 2004

**DOCKET NO. 1477**

FILED  
CLERK'S OFFICE

TERESA L. DEPPNER, CLERK  
U.S. District Court for the Southern District of West Virginia

**JUDICIAL PANEL ON MULTIDISTRICT LITIGATION**

**IN RE SERZONE PRODUCTS LIABILITY LITIGATION**

*Kathy Allen, et al. v. Bristol-Myers Squibb Co., et al.*, N.D. Texas, C.A. No. 3:03-1668 2:04-0628  
*Kelly G. Antwine, et al. v. Bristol-Myers Squibb Co.*, N.D. Texas, C.A. No. 3:04-72 2:04-0629  
*Rene G. Centnar, et al. v. Bristol-Myers Squibb Co.*, S.D. Texas, C.A. No. 4:04-171 2:04-0630

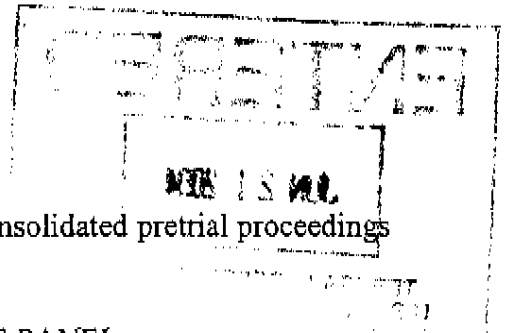
**BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN,  
BRUCE M. SELYA, D. LOWELL JENSEN, J. FREDERICK MOTZ, ROBERT  
L. MILLER, JR., AND KATHRYN H. VRATIL, JUDGES OF THE PANEL**

**TRANSFER ORDER**

Before the Panel are motions brought, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in two Northern District of Texas actions and one Southern District of Texas action to vacate the Panel's orders conditionally transferring the actions to the Southern District of West Virginia for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket. In the alternative, plaintiffs ask the Panel to stay transfer pending resolution of their motions to remand to state court. Defendant Bristol-Myers Squibb Company opposes the motions to vacate and urges inclusion of the actions in MDL-1477.

On the basis of the papers filed and hearing session held, the Panel finds that these three actions involve common questions of fact with the actions in this litigation previously transferred to the Southern District of West Virginia, and that transfer of these actions to the Southern District of West Virginia for inclusion in the coordinated or consolidated pretrial proceedings in that district will serve the convenience of the parties and witnesses and promote the just and efficient conduct of the litigation. The Panel further finds that transfer of these actions is appropriate for reasons expressed by the Panel in its original order directing centralization in this docket. The Panel held that the Southern District of West Virginia was a proper Section 1407 forum for actions involving claims of liability related to the prescription drug Serzone. *See In re Serzone Products Liability Litigation*, 217 F.Supp.2d 1372 (J.P.M.L. 2002). We note that plaintiffs' motions for remand to state court can be presented to and decided by the transferee court. *See, e.g., In re Ivy*, 901 F.2d 7 (2nd Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these three actions are transferred to the Southern District of West Virginia and, with the consent of that court, assigned to the



Honorable Joseph R. Goodwin for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:

Wm. Terrell Hodges  
Chairman

**INVOLVED COUNSEL LIST**  
**DOCKET NO. 1477**  
**IN RE SERZONE PRODUCTS LIABILITY LITIGATION**

Thomas Scott Allen, Jr.  
Cruse, Scott, Henderson & Allen  
2777 Allen Pkwy  
7th Floor  
Houston, TX 77019

Gayle L. Ballew  
Brown McCarroll  
Trammell Crow Center  
2001 Ross Avenue  
Suite 2000  
Dallas, TX 75201-2997

Charles Florsheim  
Wallach & Moore  
Summit Office Park, Suite 300  
1300 Summit Avenue  
Ft. Worth, TX 76102-4418

Carl Frankovitch  
Frankovitch, Anetakis, Colantonio & Simon  
337 Penco Road  
Weirton, WV 26062

Keith Grady  
Grady Schneider, et al.  
801 Congress Avenue, 4th Flr.  
Houston, TX 77002

William Fred Hagans  
Hagans, Bobb & Burdine  
3200 Travis  
Fourth Floor  
Houston, TX 77006

Marvin W. Masters  
Masters & Taylor, L.C.  
181 Summers Street  
4th Floor  
Peoples Building  
Charleston, WV 25301

Ralph D. McBride  
Bracewell & Patterson  
711 Louisiana  
Suite 2900  
Houston, TX 77002

Robert A. Michael  
Johnson & Sylvan  
Renaissance Tower, Suite 4440  
1201 Elm Street  
Dallas, TX 75270

Mary H. Smith  
Smith & Smith  
5120 Woodway  
Suite 7036  
Houston, TX 77056

Russell G. Thornton  
Stinnett, Thiebaud & Remington L.L.P.  
1445 Ross Avenue  
4800 Fountain Place  
Dallas, TX 75202

Alan R. Vickery  
Sedgwick, Detert, Moran & Arnold  
1717 Main Street  
Suite 5400  
Dallas, TX 75201-7367

Michael B. Victorson  
Jackson & Kelly  
P.O. Box 553  
Charleston, WV 25322-0553

**A CERTIFIED TRUE COPY**

**JUN 16 2004**

ATTEST  
FOR THE JUDICIAL PANEL ON  
MULTIDISTRICT LITIGATION

JUDICIAL PANEL ON  
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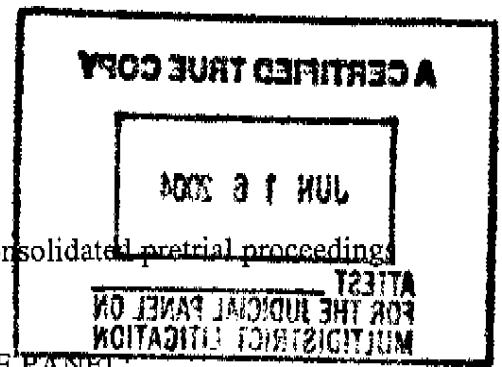
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